

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TYREE SAMUEL JONES,

Defendant-Appellant.

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UNPUBLISHED

December 19, 2006

No. 265292

Livingston Circuit Court

LC No. 04-014111-FH

Before: Murphy, P.J., and Smolenski and Kelly, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of delivery of less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv), conspiring with Dan Logie to commit that offense, MCL 750.157a, possession with intent to deliver 50 or more but less than 450 grams of cocaine, MCL 333.7401(2)(a)(iii), distribution of an imitation controlled substance, MCL 333.7341(3), and conspiring with Santonio Murray to commit that offense. Defendant appeals as of right. We affirm.

Defendant's sole claim on appeal is that the trial court erred in allowing a police officer to testify regarding statements made by Logie. Those statements were apparently admitted to prove that defendant conspired with Logie to deliver less than 50 grams of cocaine. Defendant argues that the statements were inadmissible hearsay because the prosecutor failed to establish independent proof of the conspiracy before they were admitted, MRE 801(d)(2)(E), and that the statements were admitted in violation of his Sixth Amendment right of confrontation.

A preserved nonconstitutional error regarding the admission of evidence justifies reversal only if it is more probable than not that it determined the outcome of the case. *People v Lukity*, 460 Mich 484, 493-496; 596 NW2d 607 (1999). An error is not outcome determinative unless it undermined the reliability of the verdict in light of the untainted evidence. *People v Whittaker*, 465 Mich 422, 427; 635 NW2d 687 (2001). Similarly, an error in the admission of evidence in violation of the Confrontation Clause is not a ground for reversal if a thorough review of the record shows that "it is clear, beyond a reasonable doubt, that the . . . verdict would have been the same absent the error." *People v Shepherd*, 472 Mich 343, 348; 697 NW2d 144 (2005).

During his testimony, defendant admitted that he conspired with Logie to deliver less than 50 grams of cocaine. In fact, defendant admitted his guilt to all charges except possession with intent to deliver 50 or more but less than 450 grams of cocaine. Logie's statements were

irrelevant to that charge, there being no evidence that Logie was involved in the commission of that offense. Given defendant's admissions, it is clear beyond a reasonable doubt that the verdict would have been the same absent the alleged error. Therefore, any error does not warrant appellate relief.

Affirmed.

/s/ William B. Murphy  
/s/ Michael R. Smolenski  
/s/ Kirsten Frank Kelly